



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY - 4 2017

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Philip Comella
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606

Re: Administrative Order EPA-5-17-113(a)-MI-04

Dear Mr. Comella:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at 312-886-3853.

Sincerely,

A handwritten signature in black ink, appearing to read "Natalie Topinka", is written above the typed name.

Natalie Topinka, Acting Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Andre Daugavietis/C-14J
Tom Hess, MDEQ
Scott Miller, MDEQ

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-17-113(a)-MI-04
)	
Advanced Disposal Services)	Proceeding Under Section 113(a)(3)
Arbor Hills, Inc.)	of the Clean Air Act, 42 U.S.C.
Northville, Michigan)	§§ 7413(a)(3) and 7414(a)(1)
)	
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to Advanced Disposal Services Arbor Hills, Inc. (Advanced Disposal or Respondent) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

New Source Performance Standards

2. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the General Provisions for the Standards of Performance for New Stationary Sources (NSPS General Provisions) at 40 C.F.R. §§ 60.1 through 60.19. The NSPS General Provisions apply to Arbor Hills Landfill (the Landfill) and the associated gas collection and control system (GCCS) because the Landfill is a municipal solid waste (MSW) landfill that commenced modifications on or after May 30, 1991.
3. The NSPS General Provisions, at 40 C.F.R. § 60.11(d), requires that the owner or operator of the Landfill and GCCS shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions at all times, including periods of

startup, shutdown, and malfunction. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the EPA, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

4. Under Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the Standards of Performance for New Stationary Sources for Municipal Solid Waste Landfills (Landfill NSPS) at 40 C.F.R. §§ 60.750 through 60.759. The Landfill NSPS applies to the Landfill and GCCS.
5. The Landfill NSPS, at 40 C.F.R. § 60.755(c)(5), requires the owner or operator of the Landfill and the GCCS to maintain proper cover integrity at the Landfill to ensure GCCS efficiency.
6. The Landfill NSPS, at 40 C.F.R. § 60.759(b)(1)-(2), requires the owner or operator of the Landfill and GCCS to install an active gas collection system that can withstand overburden, address water in the Landfill, prevent gas into the air, and extend to address gas migration standards.
7. The Landfill NSPS, at 40 C.F.R. § 60.752(b)(2)(ii)(A)(3), requires the owner or operator of the Landfill and GCCS to collect gas at a sufficient extraction rate.
8. The Landfill NSPS, at 40 C.F.R. § 60.755(a)(3) & (5), requires the owner or operator of the Landfill and GCCS to expand the gas collection system to correct the exceedance of any wellhead monitoring parameter within 120 days of the initial measurement of the exceedance, if correction of the exceedance cannot be achieved within 15 calendar days. An alternative timeline for correcting the exceedance may be submitted to the Administrator for approval.

National Emission Standards for Hazardous Air Pollutants

9. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills (Landfill NESHAP) at 40 C.F.R. §§ 63.1930 through 63.1990. The Landfill NESHAP applies to the Landfill and GCCS because the Landfill is an MSW landfill that has accepted waste since November 8, 1987 and is a major source as defined in 40 C.F.R. § 63.2.
10. The Landfill NESHAP, at 40 C.F.R. § 63.1955, requires the owner or operator of the Landfill and the GCCS to comply with the requirements of the Landfill NSPS at 40 C.F.R. Part 60, Subpart WWW.
11. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the General Provisions for the National Emission Standards for Hazardous Air Pollutants (NESHAP General Provisions) at 40 C.F.R. §§ 63.1 through 63.16. The parts of the NESHAP General Provisions that apply to the Landfill are located in Table 1 of the Landfill NESHAP.
12. The NESHAP General Provisions, at 40 C.F.R. § 63.6(e)(1)(i), requires that the owner or operator of the Landfill and the GCCS shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions.

Michigan's Renewable Operating Permit (ROP) Requirements

13. Under Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), EPA promulgated regulations implementing Title V of the CAA at 40 C.F.R. Part 70. The Michigan Department of Environmental Quality (MDEQ) issued a ROP to the Landfill on January 24, 2011.
14. The ROP requires the owner or operator of the Landfill and the GCCS to comply with the Landfill NSPS and NESHAP as well as timelines on performance testing for control devices.

Clean Air Act Section 114

15. The Administrator of EPA may require any person who is subject to any requirement of the CAA to make reports under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

16. Advanced Disposal owns and operates the Landfill at 10690 West Six Mile Road, Northville, Michigan.
17. BFI Waste Systems of North America, LLC (BFI) retained ownership of the GCCS at the Landfill in a Purchase Agreement dated March 8, 2000; and operated the GCCS, including over 300 gas collection wells, two enclosed flares, and one utility flare. Subsequently, as of February 2, 2017, BFI transferred ownership and control of the GCCS to Advanced Disposal, and as a result is no longer an owner or operator of the affected facility.
18. Arbor Hills Energy owns and operates the Landfill's Gas-to-Energy Plant at 10611 West Five Mile Road, Northville, Michigan.
19. The Landfill was modified on or after May 30, 1991. Advanced Disposal is subject to the Landfill NSPS, the Landfill NESHAP, and the NSPS and NESHAP General Provisions as the owner and operator of the Landfill.
20. Advanced Disposal owns and operates an "emission source" within the meaning of Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Advanced Disposal is subject to the requirements of Section 114(a)(1).
21. On September 29, 2016, EPA issued to Advanced Disposal a Finding of Violation (FOV) alleging that it violated the Landfill NSPS at 40 C.F.R. § 60.755(c)(5), the NSPS General

- Provisions at 40 C.F.R. § 60.11(d), the Landfill NESHAP at 40 C.F.R. § 63.1955, the NESHAP General Provisions at 40 C.F.R. § 63.6(e)(1)(i), and the facility ROP.
22. In addition, on September 29, 2016, EPA issued a FOV to BFI alleging that it violated the Landfill NSPS at 40 C.F.R. §§ 60.759(b)(1)-(2), 60.755(a)(3) and 60.752(b)(20(ii)(A)(3), the NSPS General Provisions at 40 C.F.R. § 60.11(d), the Landfill NESHAP at 40 C.F.R. § 63.1955, the NESHAP General Provisions at 40 C.F.R. § 63.6(e)(1)(i), and the facility ROP.
23. On November 14, 2016, and subsequently, representatives of Advanced Disposal, BFI, Arbor Hills Energy, MDEQ and EPA discussed the September 29, 2016 FOVs.
24. On December 2, 2016, Advanced Disposal and BFI each submitted additional information regarding the allegations in the FOVs.
25. On December 23, 2016, Advanced Disposal, BFI and Arbor Hills Energy submitted a Collaborative Plan for Corrective Action outlining construction work completed in 2016 and anticipated work for 2017 intended to ensure and demonstrate compliance at the Landfill with the Landfill NSPS, the Landfill NESHAP, the NSPS and NESHAP General Provisions, and the facility ROP.
26. EPA subsequently requested additional information related to that Collaborative Plan for Corrective Action, which the parties provided on February 10, 2017.

Compliance Program

27. Respondent must demonstrate and maintain compliance with the Landfill NSPS, the Landfill NESHAP, the NSPS and NESHAP General Provisions and the facility ROP at the Landfill facility.

28. Respondent has agreed to work to reduce the emission of odors from the Landfill to surrounding communities.
29. Respondent has agreed to the terms of a Compliance Plan. Under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), the Compliance Plan is attached to and made part of this Order.
30. Respondent has agreed to timely implement the steps set forth in the Compliance Plan.
31. Arbor Hills Energy has agreed to perform certain operation and maintenance responsibilities related to this Order on the Landfill's GCCS pursuant to a written agreement with Advanced Disposal.
32. Respondent must send any reports required by this Order, including the Compliance Plan, to:

Attention: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

General Provisions

33. This Order does not affect Respondent's responsibility to comply with other federal, state and local laws.
34. Respondent neither admits nor denies any finding of fact or law in the FOV or this Order.
35. This Order does not restrict EPA's authority to enforce the CAA and its implementing regulations.
36. The parties may modify the terms of this Order by written agreement signed by EPA and the Respondent. Requested modifications to the Compliance Plan, including deadlines, may be approved in writing by assigned EPA staff.
37. Failure to comply with this Order may subject Respondent to penalties under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

38. The terms of this Order are binding on Respondent and each of its assignees and successors.

Respondent must give notice of this Order to any successors in interest prior to transferring ownership of facilities subject to this Order, and must simultaneously verify to EPA, at the above address, that it has given the notice.

39. Respondent may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Respondent fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

40. This order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

41. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

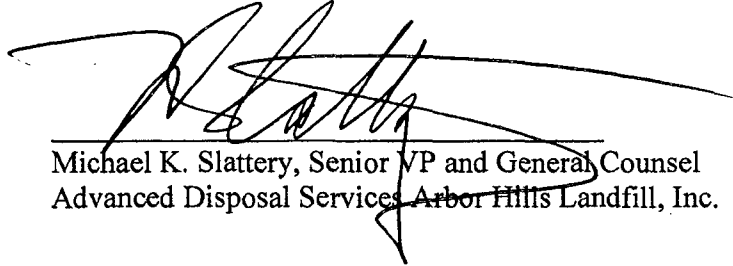
42. Respondent agrees to the terms of this Order. Respondent waives any remedies, claims for relief, and otherwise available rights to judicial or administrative review that it may have

with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the CAA, 42 U.S.C. § 7607(b).

43. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate on the earlier of (a) two years from the effective date; or (b) the date that EPA accepts certification by Respondent that it has complied with all terms of the Order and satisfactorily implemented the Compliance Plan.

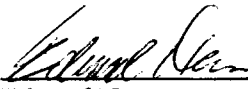
Advanced Disposal Services Arbor Hills, Inc.

4/19/2017
Date


Michael K. Slattery, Senior VP and General Counsel
Advanced Disposal Services Arbor Hills Landfill, Inc.

United States Environmental Protection Agency

5/4/17
Date



Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

CERTIFICATE OF MAILING

I certify that I sent the Administrative Consent Order, EPA-5-17-113(a)-MI-04, by certified mail, return receipt requested, to:

Philip Comella
Freeborn & Peters LLP
311 South Wacker Drive,
Suite 3000
Chicago, Illinois 60606

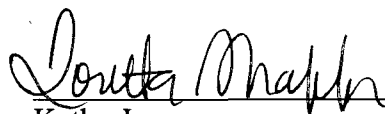
I also certify that I sent a copy of the Administrative Consent Order, EPA-5-17-113(a)-MI-04, by E- mail to:

Tom Hess
HESST@michigan.gov

and

Scott Miller
MILLERS@michigan.gov

On the 8 day of May 2017.



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7016 1370 0001 5719 9988